

ESTTA Tracking number: **ESTTA85918**

Filing date: **06/17/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	PPC Marketing, Ltd.		
Entity	Partnership	Citizenship	Texas
Composed Of:	Pilgrim's Pride Corporation (a Delaware corporation) general partner.		
Address	110 S. Texas Street P.O. Box 93 Pittsburgh, TX 75686-0093 UNITED STATES		

Attorney information	Nancy Navarro Navarro Law Office, P.C. P.O. Box 166851 Irving, TX 75016 UNITED STATES nancynavarro@verizon.net Phone:972 659-1275
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Applicant Information

Application No	78544615	Publication date	05/23/2006
Opposition Filing Date	06/17/2006	Opposition Period Ends	06/22/2006
Applicant	Michael Foods, Inc. Suite 400 301 Carlson Parkway Minnetonka, MN 553055370 UNITED STATES		

Goods/Services Affected by Opposition

Class 029. All goods and services in the class are opposed, namely: Processed egg products for human consumption, namely refrigerated, frozen and pre-cooked eggs
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Attachments	BETTER'N EGGS PLUS.pdf (6 pages)(70213 bytes)
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Signature	/lovella/
Name	Nancy Navarro
Date	06/17/2006

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re:	Trademark Application of)	Opposition No.
)	
	Michael Foods, Inc.)	
)	_____
)	
)	
)	
Serial No:	78/544615)	
)	Published in Trademark
Filed:	January 10, 2005)	
)	Official Gazette on
Mark:	BETTER 'N EGGS PLUS)	
)	May 23, 2006

NOTICE OF OPPOSITION


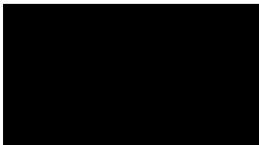
FILED THROUGH ESTTA
Commissioner for Trademarks
BOX TTAB - FEE

Dear Sir:

In the matter of Application Serial No.78/544615 to register the mark BETTER 'N EGGS PLUS in connection with processed egg products for human consumption, namely refrigerated, frozen and pre-cooked eggs filed on January 10, 2005, by Michael Foods, Inc. (hereinafter "Applicant"), and published in the Official Gazette on May 23, 2006, PPC MARKETING LTD. (hereinafter "Opposer"), believes it will be damaged by registration of the mark and hereby gives notice of opposition to registration.

The grounds for this opposition are as follows:

1. Applicant is a Corporation of Delaware and has a place of business at Suite 400 301 Carlson Parkway Minnetonka, MN 55305-5370. Applicant is the record owner of Application Serial No. 78/544615 for the mark BETTER 'N EGGS PLUS (hereinafter "Applicant's Mark") for the goods: processed egg products for human consumption, namely refrigerated, frozen and pre-cooked eggs (hereinafter "Applicant's Goods").
2. Opposer is a Texas Limited Partnership and has a place of business at 110 S. Texas Street, Pittsburgh, Texas 75686. Opposer is the owner of the following trademarks :

Mark	Registration No.	First Use	Goods
EGGS PLUS	2164616	01/03/1997	Eggs containing essential fatty acids and natural antioxidants and which are a good source for vitamin E.
	2975706	01/03/1997	Eggs containing essential fatty acids and natural antioxidants and which are a good source for vitamin E.
	2401500	01/03/1997	Eggs containing essential fatty acids and natural antioxidants and which are a good source for vitamin E.

The marks identified in the forgoing registrations are hereinafter referred to collectively as "Opposer's Marks." The goods identified in the forgoing registrations are hereinafter referred to collectively as "Opposer's Goods."

3. The foregoing registrations are valid, subsisting and incontestable pursuant to 15 U.S.C. sec. 1065 and are conclusive evidence of the validity of the registrations of the marks, Opposer's ownership of the marks, and to Opposer's exclusive right to use its mark in connection with the goods specified in the registrations.

4. Opposer's first use of Opposer's Marks in commerce was as early as 1997, if not earlier, and has been continuous since that time.

5. Applicant has not used the mark BETTER 'N EGGS PLUS in U.S. commerce. As such, priority is not an issue in this proceedings.

6. Opposer is the second largest poultry and eggs producer in America. Opposer produces 480 million table eggs per year and produces up to 12 million eggs per week during peak holiday seasons.

7. Since long prior to the filing of Applicant's application, Opposer has been and is now engaged in the business of advertising, offering for sale, selling and rendering Opposer's Goods under its EGGS PLUS marks throughout the U.S.

8. De to Opposer's long, established and exclusive use of Opposer's Mark, in connection with Opposer's Goods, the mark EGGS PLUS has become well known as a designation of Opposer's Goods throughout the United States.

9. Opposer enjoys substantial and exclusive goodwill and a fine reputation throughout the United States in connection with Opposer's Mark for Opposer's Goods. Opposer's goodwill and reputation will be harmed by the use and registration of the mark BETTER 'N EGGS PLUS to Applicant.

10. Opposer's Marks are inherently distinctive and famous or in the alternative, they have acquired distinctiveness and fame prior to any date of first use of Applicant's Marks.

11. Applicant's mark BETTER 'N EGGS PLUS so resembles Opposer's EGGS PLUS and, as such, is likely to cause confusion, mistake or to deceive members of the general public by creating the erroneous impression that Applicant's goods originate with or are

associated with Opposer, or that Applicant's Goods are authorized, endorsed, or sponsored by Opposer.

12. Applicant's Goods under Applicant's Mark are identical or in the alternative substantially the same as Opposer's Goods under Opposer's Marks.

13. Applicant's filing of Application Serial No. 78/544615 for the mark BETTER 'N EGGS PLUS is without license, authorization or permission from Opposer.

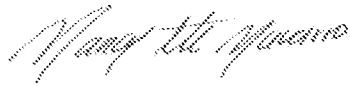
14. The granting of a registration for the BETTER 'N EGGS PLUS mark to Applicant would be contrary to 15 U.S.C. §§ 1052(d) and would violate and diminish the prior and superior rights of Opposer in its trademark.

15. Opposer would be damaged if Application Serial No. 78/544615 is granted because Applicant will obtain statutory rights in the BETTER 'N EGGS PLUS mark in violation and derogation of the established prior rights of Opposer in its marks.

WHEREFORE, Opposer prays that its Opposition be sustained, that Application Serial No. 78/544615 be denied, and that registration of BETTER 'N EGGS PLUS as a trademark to Applicant be refused.

Respectfully submitted,

By:



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ATTORNEY FOR OPPOSER
PPC MARKETING LTD.